



[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2012-0547]

Airport Improvement Program (AIP) Use of Mineral Revenue at Certain Airports

AGENCY: Federal Aviation Administration (FAA).

ACTION: Notice of guidance; opportunity to comment.

SUMMARY: On February 14, 2012, the FAA Modernization and Reform Act of 2012 (FMRA) was signed into law (P.L. 112-95). Section 813 permits the Administrator of the Federal Aviation Administration (FAA) to declare certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport to be revenue greater than the amount needed to carry out the five-year projected maintenance needs of the airport in order to comply with the applicable design and safety standards of the Administration. Although the FMRA directed the FAA to promulgate regulations to carry out Section 813 not later than 90 days after the date of enactment, the authorizing committees agreed to support the FAA's request to issue guidance in lieu of a formal rulemaking due to the time limits imposed by the statute. This notice contains the FAA's proposed guidance developed to carry out Section 813 and offers the public an opportunity to comment.

DATES: The effective date of this guidance is [date of publication]. The FAA will consider comments on this guidance. If necessary, any appropriate revisions resulting from the comments received will be adopted as of the date of a subsequent publication in the Federal Register. Comments must be submitted on or before [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: You may send comments [identified by Docket Number FAA-2012-0547] using any of the following methods:

- Government-wide rulemaking web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- Mail: Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12-140, Routing Symbol M-30, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Fax: 1-202-493-2251.
- Hand Delivery: To Docket Operations, Room W12-140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Randall S. Fiertz, Director, Office of Airport Compliance and Management Analysis, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 267-3085; facsimile: (202) 493-1416.

SUPPLEMENTARY INFORMATION: A sponsor (applicant) seeking financial assistance for airport planning, airport development, noise compatibility planning or noise mitigation under 49 U.S.C., as amended must agree to comply with certain assurances. These assurances include certain prohibitions on the use of airport revenue. On April 13, 2012, the FAA published modifications to this assurance at 77 FR 22376. Specifically, paragraph (a)(3) of Sponsor Assurance 25 permits the FAA to exempt certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95.

A complete list of the current grant assurances can be viewed at:

http://www.faa.gov/airports/aip/grant_assurances/

Guidance Developed to Carry Out Section 813 of P.L. 112-95

Airport Sponsor Actions: Airport sponsors seeking to exempt mineral revenue under Section 813 of Public Law 112-95 must submit a sponsor application. The application must include:

- a statutorily mandated five year capital improvement program, as set forth in FAA's Compliance Guidance Letter 2012-01 and Appendix B-1;
- An executed agreement including clauses pertaining to the sponsor's liability, funding waiver, revenue use, and airport use, as set forth in FAA's Compliance Guidance Letter 2012-01 and Appendix C-1;
- A statement with details identifying eligible projects and providing the necessary documentation to meet the thresholds set by statute for the use of the exempted revenue, as set forth in FAA's Compliance Guidance Letter 2012-01 and Appendix D-1 and Table D;

FAA's Compliance Guidance Letter 2012-01 and applicable appendices may be found at:

http://www.faa.gov/airports/airport_compliance/mineral_revenue

FAA Actions: FAA and, where applicable, block grant state personnel will begin working with airport sponsors interested in and eligible for the exemption prescribed under Section 813 of Public Law 112-95 to develop a proposed five-year capital improvement program inclusive of the items identified in the sponsor submission application, as set forth in FAA's Compliance Guidance Letter 2012-01 and Appendix B-1. At such time when the airport sponsor submits its application, the local FAA office will ensure the proposed five-year capital improvement program meets the statutorily mandated requirements. The local FAA office also will ensure the airport sponsor's application includes the required agreements and conditions. The local FAA office will forward the sponsor's application to the appropriate regional FAA office. The regional FAA office will notify the airport sponsor if the "application and requisite supporting

documentation” meet the statutory requirements. This notice commences FAA’s 90-day clock to provide a determination on revenue exemption under this provision.

For more details regarding FAA’s internal procedures, see FAA’s Compliance Guidance Letter 2012-01 and appendices, which may be found at:

http://www.faa.gov/airports/airport_compliance/mineral_revenue

Issued in Washington, DC on May 16, 2012.

Randall S. Fiertz

Director, Office of Airport Compliance
and Management Analysis

[FR Doc. 2012-12375 Filed 05/21/2012 at 8:45 am; Publication Date: 05/22/2012]